

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MORGAN SHEPHERD,

Petitioner,

v.

Civil Action No. 2:16-6669

DAVID BALLARD, Warden, Mount
Olive Correctional Complex,

Respondent.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendations of United States Magistrate Judge Cheryl A. Eifert, filed on May 3, 2017, pursuant to the provisions of 28 U.S.C. § 636(b) (1) (B) ; and having reviewed the record in this proceeding; and there being no objections filed by any party to the proposed findings and recommendation;¹ and it appearing proper so to do, it is ORDERED that the findings and conclusions made in the proposed findings and recommendation of the magistrate judge be, and they hereby are, adopted by the court.

It is, therefore, ORDERED that:

1. Petitioner's request for a stay and abeyance of his petition for a writ of habeas corpus (ECF Doc. No. 17) be, and it

¹ Petitioner responded on May 8, 2017, stating that he agrees with

hereby is, granted on the conditions set forth next below;

2. Petitioner be, and he hereby is, granted a stay so that he may pursue his state court remedies for his unexhausted claims and that the stay be, and hereby is, conditioned on Petitioner pursuing his state court remedies within thirty (30) days of the date of this order;

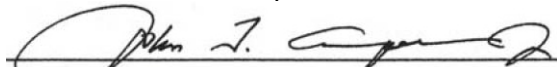
3. Petitioner's habeas petition be, and it hereby is, held in abeyance pending exhaustion of his state court remedies, and Petitioner be, and hereby is, required to return to federal court within thirty (30) days after he has exhausted his state court remedies and seek to lift the stay; and

4. Respondent's motion to dismiss (ECF Doc. No. 9) be, and it hereby is, denied without prejudice.

In view of the stay, it is ORDERED that this case be removed from the active docket of the court.

The Clerk is directed to forward copies of this written opinion and order to plaintiff, all counsel of record and the United States Magistrate Judge.

DATED: June 9, 2017



John T. Copenhaver, Jr.
United States District Judge

the Proposed Findings and Recommendations.